

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:17-CR-5-FL-1

UNITED STATES OF AMERICA

v.

SANJAY KUMAR,

Defendant.

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ORDER

This matter is before the court on defendant's motion (DE 572) for the court to enter order on disposition of sealed material subject of supplemental protective order (DE 434), entered December 16, 2019 (the "supplemental protective order"). Because of imminent sentencing hearing, the court has expedited consideration of the same.

In the instant motion, defendant states that case-related materials available for defendant's use (the "materials"), some of which are sealed and sensitive materials, are presently located in the Pamlico County Jail (the "jail"), pursuant to the terms of the supplemental protective order. Defendant states that an officer of the jail has informed counsel that he "intended to move the materials to the New Bern Courthouse by 4 September 2020, placed in the custody of the Marshal, in anticipation of sentencing." (Def's Mot. (DE 572) at 2). Defendant states that he "objects to removal of the materials from his possession and use," and he states that "after sentencing an Order is necessary on further protection of these sensitive materials under SEAL, and defendant's use of his own materials, anticipating defendant's relocation from the Pamlico County jail." (*Id.*).

As an initial matter, the instant motion raises an issue regarding transport and placement of the materials in accordance with the terms of the court's February 1, 2017, protective order (the

“protective order”), and the supplemental protective order. The protective order allows defendant to access the materials in connection with, in pertinent part, sentencing and direct appeal. (Prot. Order (DE 21) at 2). The supplemental protective order allows defendant to have access to the materials in the reviewing room in the jail, during meetings with defendant’s counsel of record, and during court proceedings in this case. (Supp. Prot. Order (DE 434) at 2). “Prior to the end of any such meeting or court proceeding, defendant shall return to defendant’s counsel all copies of [the] materials provided to him during the meeting or court proceeding.” (Id.). In addition, the supplemental protective order provides that “[d]efendant’s counsel may remove any [such] materials from the reviewing room and the present jail facility.” (Id. at 5).

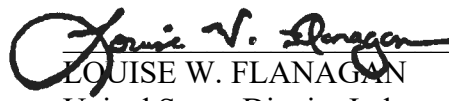
With respect to the responsibility of the United States Marshals Service, the supplemental protective order provides that “[t]he U.S. Marshals Service in this district shall provide a copy of the [supplemental protective order] and the Protective Order to the appropriate official(s) at the present jail facility with responsibility for enforcing the terms of these Orders.” (Id. at 8). Further, “[t]he U.S. Marshals Service shall advise the court if defendant’s housing is changed to a different jail facility.” (Id.).

Based on the foregoing, care should be taken in transporting the materials to the courthouse for use by defendant and defendant’s counsel for purposes of the upcoming sentencing, while maintaining appropriate protections for sealed materials under the terms of the protective order and supplemental protective order. The United States Marshals Service in this district is DIRECTED to coordinate access by defendant and defendant’s counsel to the materials at the courthouse for use by defendant and defendant’s counsel for purposes of the upcoming sentencing. The court HOLDS IN ABEYANCE ruling on that portion of the motion seeking an order for

disposition of the materials after sentencing. At this juncture, the court notes that the protective order allows defendant continuing access to the materials for appeal and collateral proceedings.

The clerk is DIRECTED to serve as soon as practical a copy of this order on the parties by email, and to the United States Marshal for this district and deputy marshal at New Bern via hand delivery or email.

SO ORDERED, this the 3rd day of September, 2020.



LOUISE W. FLANAGAN
United States District Judge